

Senate Bill No. 59

CHAPTER 247

An act to add Section 366.28 to the Welfare and Institutions Code, relating to adoption.

[Approved by Governor September 1, 2003. Filed
with Secretary of State September 2, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 59, Escutia. Dependent children: placement.

Existing law authorizes the juvenile court to determine the placement of children who are dependent children of the juvenile court.

This bill would provide that after parental rights have been terminated, an order that a dependent child is to reside in, be retained in, or be removed from a specific placement is not appealable, except as specified. The bill would also provide that this provision does not affect the right of a parent, a legal guardian, or the child to appeal any order that is otherwise appealable and that is issued at a hearing to terminate parental rights.

The bill would also require the Judicial Council to adopt a rule of court on or before July 1, 2004, to implement these provisions. The bill would provide that these provisions would become operative after the rule of court is adopted.

The people of the State of California do enact as follows:

SECTION 1. Section 366.28 is added to the Welfare and Institutions Code, to read:

366.28. (a) The Legislature finds and declares that delays caused by appeals from court orders designating the specific placement of a dependent child after parental rights have been terminated may cause a substantial detriment to the child. The Legislature recognizes that the juvenile court intervenes in placement decisions after parental rights have been terminated only in exceptional circumstances, and this section is not intended to place additional authority or responsibility on the juvenile court.

(b) (1) After parental rights have been terminated pursuant to Section 366.26, an order by the court that a dependent child is to reside in, be retained in, or be removed from a specific placement, is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule of court, to substantively address the specific placement order that is challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(c) This section does not affect the right of a parent, a legal guardian, or the child to appeal any order that is otherwise appealable and that is issued at a hearing held pursuant to Section 366.26.

(d) The Judicial Council shall adopt a rule of court on or before July 1, 2004, to implement this section. This section shall become operative after the rule of court is adopted.

